1946.

File No. O. Guardians 46

Legal Department

A - BRANCH

Subject: Opinions under the Guardians and Wards Act, 1890.

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L.D.R.I.No.3469/22-4-46.

11-5-46.

S Submitted with reference to R.D. notes at p.5 ante.

2. Please see the D.J., Ahmedabad's letter at pp. 3-4 ante. He reports that for appointment as a guardian of the person & property of the minor Shirishkumar Punamchand Mody, one Umiashanker Muljibhai, who has been appointed as guardian of the minor by the minor's father's last will, has presented an application to the District Court at Neemuch Cantonment, Central & Provinces, on 26-10-1945 and one Manubhai Alias Maneklal Chhaganlal Mody, an uncle of the minor, has applied to the District Court, Ahmedabad on 30-11-1945 and that he was received a letter from the the Neemuch Court that the proceedings before it have been stayed by that court under sec. 14(1) of the Guardians & Wards Act, 1890, with a view to know whether the Ahmedabad Court would act in accordance with sec. 9(3) of the said Act as the property of the minor is situated in Ahmedabad. The D.J., Ahmedabad has observed that looking to the circumstances of the case and particulary to the fact that the applicant before the Neemuch Court is a testamentary guardian with whom the minor resides, it would be in the interest of the minor if the application is heard & disposed of by the Neemuch Court, and has submitted the papers to Government under sec. 14(3) of the Guardians & Wards Act for orders as to which Court should deal with the matter R.D. Office has prpoesed that as suggested by the D.J. Ahmedabad the matter should be dealt with by the Neemuch Court. The U.S. R.D. has requested the R.L.A. to advise before formal orders are issued accordingly.

3. Section 14 of the Guardians & Wards Act, 1890, provides for cased where proceedings forthe appointmen t of a guardian of a minor are simultaneously taken in different Courts. Sub-section (1) thereof provides for stay of proceedings in each court on being the proceedings in the other Courts. ~~kaxa~~ Sub-section lays down that if the Courts are subordinate to High Court, that High Court will decide which deal withthe matter. In other cases i.e. where Courts are subordinate to different High Courts and thus in dirrerent Provinces as in the present case, im under sub-section (3) the Courts aret o reportthe natterto and be guided by such orders as they may receive from, ~~thir~~ their respective Provincial Governments. There would therefore be no legal objection if Govt. in R.D. directs that the Ahmedabad Court should not deal witht he matter leaving it to be disposed of by the Neemuch Court. The papers may be seem and returned t o R.D.

It is presumed that Neemuch Co rt has reported the caset o the CpP.Govt. under sec. 14(3).

Reply may be seen and returned.

~~R~~There is no objection to accepting the Suggestion A.L.R. of the D.J. Ahmedabad.

Id/-R.T.K. 20/5

R.L.A. As directed by the R.L.A. I have considered section 14(1) "Guardian of a minor" in section 14(1) means guardian having the case of the person of a minor or of his property or of both his person and property(see section 4(2) of the Act.).

Reply may be as proposed by m
Id/- R.T.K. 21/5

Id/- P.N.M. 22/5/46.

R.L.A.

Office of the R.L.A.

Seen and returned.

There is no objection to accepting the suggestion of the District Judge, Ahmedabad.

Id/- P.N.M. 23/5/46

Remembrancer of Legal Affairs.

U.R. to R.D.No. 3924, dated the 25th May 1946.

C.G.S. 9-7

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